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Ex parte Gilland

Supreme Court of Alabama - September 28, 2018 - So.3d - 2018 WL 4657335

Dog bite victim brought action against municipal animal-control officer in officer's individual capacity for negligence and wantonness for officer's alleged breach of a duty to enforce animal-control policies as to neighbor's dog.

The Circuit Court denied officer's motion to dismiss on the basis of state-agent immunity. Officer petitioned for a writ of mandamus.

The Supreme Court of Alabama held that victim failed to state a claim that was sufficient to defeat dismissal based on state-agent immunity.

Dog bite victim failed to state a claim of negligence and wantonness against municipal animal-control officer that was sufficient to defeat dismissal based on state-agent immunity, where, construing the allegations in the complaint in victim's favor, officer seized the dog in question, but officer's supervisor instructed officer to return the dog to its owner based on the lack of space at the animal shelter, and officer did everything in her power, short of disobeying her supervisor's instructions, to avoid returning the dog, which meant that officer was discharging the duties imposed on her by law, and there was no basis to plausibly conclude that officer acted willfully, maliciously, fraudulently, in bad faith, beyond her authority, or under a mistaken interpretation of the law.

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